

1997

Member's Share of Income,
Deductions, Credits, etc.

K-1 (568)

For taxable or income year beginning **M M D D 1 9 9 7**, and ending **M M D D 1 9 Y Y**.

Member's identifying number

LLC's FEIN

Member's name, address, state and ZIP code

Secretary of State file number

LLC's name, address, state and ZIP code

A What type of entity is this member? ●

- (1) ☐ Individual (5) ☐ General Partnership (8) ☐ LLC
 (2) ☐ S Corporation (6) ☐ Limited Partnership (9) ☐ IRA/Keogh/SEP
 (3) ☐ Estate/Trust (7) ☐ LLP (10) ☐ Exempt Organization
 (4) ☐ Corporation

B Is this member a foreign member? ● ☐ Yes ☐ No**C** Enter member's percentage (without regard to special allocations) of:

- (i) Before decrease or termination (ii) End of year
- Profit sharing % ● %
 Loss sharing % ● %
 Ownership of capital % ● %

D Member's share of liabilities:

Nonrecourse \$ _____
 Qualified nonrecourse financing \$ _____
 Other \$ _____

E Tax shelter registration number _____**F** Check here if this is a publicly traded partnership as defined in IRC Section 469(k)(2) ☐**G** Check here if this is: ●(1) ☐ a final Schedule K-1 (568) (2) ☐ an amended Schedule K-1 (568)**H** Is this member a nonresident of California? ► ☐ Yes ● ☐ No**I** Analysis of member's capital account:

| (a) Capital account at beginning of year | (b) Capital contributed during year | (c) Member's share of line 3, line 4 and line 7 Form 568, Schedule M-2 | (d) Withdrawals and distributions | (e) Capital account at end of year (combine column (a) through column (d)) |
|--|-------------------------------------|--|-----------------------------------|--|
| | | | () | |

Caution: Refer to Partner's Instructions for federal Schedule K-1 (1065) before entering information from this schedule on your tax return.

| | (a) Distributive share item | (b) Amount from federal Schedule K-1 (1065) | (c) Adjustments | (d) Total amounts using California law (Combine col. (b) and col. (c)) | (e) California source amounts and credits |
|---------------|--|---|-----------------|--|---|
| Income (Loss) | 1 Ordinary income (loss) from trade or business activities | | ● | | ► |
| | 2 Net income (loss) from rental real estate activities. | | ● | | ► |
| | 3 Net income (loss) from other rental activities | | | | |
| | 4 Portfolio income (loss): | | | | |
| | a Interest | | ● | | ► |
| | b Dividends | | ● | | ► |
| | c Royalties | | ● | | ► |
| | d Net capital gain (loss) | | ● | | ► |
| | e Other portfolio income (loss). Attach schedule | | ● | | ► |
| | 5 Guaranteed payments to members | | ● | | ► |
| | 6 Net gain (loss) under IRC Section 1231 (other than due to casualty or theft) | | ● | | ► |
| Deductions | 7 Other income (loss). Attach schedule | | | | |
| | 8 Charitable contributions. | | | | |
| | 9 Expense deduction for recovery property (R&TC Sections 17266 17267.2 and 17268 and IRC Section 179). Attach schedule | | | | |
| | 10 Deductions related to portfolio income. Attach schedule | | | | |
| | 11 Other deductions. Attach schedule | | | | |

| (a) Distributive share item | | (b) Amount from federal Schedule K-1 (1065) | (c) Adjustments | (d) Total amounts using California law (Combine col. (b) and col. (c)) | | (e) California source amounts and credits | |
|--|---|---|-----------------|--|--|---|--|
| Investment Interest | 12 a Interest expense on investment debts | | | | | | |
| | b (1) Investment income included on line 4a through line 4e | | | | | | |
| | (2) Investment expenses included on line 10 | | | | | | |
| Credits | 13 a (1) Withholding on LLC allocated to all members | | | | | | |
| | (2) LLC withholding on nonresident members | | | | | | |
| | (3) Total withholding (equals amount on Form 592-B if calendar year LLCs) | | | | | | |
| | b Low-income housing credit | | | | | | |
| | c Credits other than line 13b related to rental real estate activities. Attach schedule | | | | | | |
| | d Credits related to other rental activities. See instructions. Attach schedule | | | | | | |
| | e Nonconsenting member tax paid by LLC | | | | | | |
| 14 Other credits. Attach required schedules or statements. | | | | | | | |
| Adjustments and Tax Preference Items | 15 a Depreciation adjustment on property placed in service after 1986 | | | | | | |
| | b Adjusted gain or loss | | | | | | |
| | c Depletion (other than oil and gas) | | | | | | |
| | d (1) Gross income from oil, gas and geothermal properties | | | | | | |
| | (2) Deductions allocable to oil, gas and geothermal properties | | | | | | |
| | e Other adjustments and tax preference items. Attach schedule | | | | | | |
| Other | 16 a Total expenditures to which an IRC Section 59(e) election may apply | | | | | | |
| | b Type of expenditures | | | | | | |
| | 17 Tax-exempt interest income | | | | | | |
| | 18 Other tax-exempt income | | | | | | |
| | 19 Nondeductible expenses | | | | | | |
| | 20 Distributions of money (cash and marketable securities) | | | | | | |
| | 21 Distributions of property other than money | | | | | | |
| 22 Supplemental information required to be reported separately to each member. Attach additional schedules. See instructions. \$ _____ | | | | | | | |

Table 1 — Member's share of nonbusiness income from intangibles (source of income is dependent on residence or commercial domicile of the member):

Interest \$ _____ Sec 1231 Gains/Losses \$ _____ Capital Gains/Losses \$ _____
 Dividends \$ _____ Royalties \$ _____ Other \$ _____

FOR USE BY APPORTIONING UNITARY MEMBERS ONLY. See instructions.

Table 2 — Member's share of distributive items.

- A. Member's share of the LLC's business income. See instructions. \$ _____
- B. Member's share of nonbusiness income from real and tangible property sourced or allocable to California.
 Capital Gains/Losses \$ _____ Rents/Royalties \$ _____
 Sec 1231 Gains/Losses \$ _____ Other \$ _____
- C. Member's share of the property, payroll and sales:

| Factors | Total within and outside California | Total within California |
|---------------------|-------------------------------------|-------------------------|
| Property: Beginning | \$ _____ | \$ _____ |
| Ending | \$ _____ | \$ _____ |
| Payroll | \$ _____ | \$ _____ |
| Sales | \$ _____ | \$ _____ |

Member's Instructions for Schedule K-1 (568)

General Information

A Purpose

A limited liability company (LLC) that has elected to be taxed as a partnership uses Schedule K-1 (568) to report your share of the LLC's income, deductions, credits, etc. Please keep it for your records. Do not file it with your tax return. The LLC has filed a copy with the FTB.

Although the LLC is not subject to income tax, you are subject to tax on your share of the LLC income, whether or not distributed.

The amount of loss and deduction that you may claim on your tax return may be less than the amount reported on Schedule K-1 (568). Generally, the amount of loss and deduction you may claim is limited to your basis in the LLC and the amount for which you are considered at-risk. If you have losses, deductions or credits from a passive activity, you must also apply the passive activity rules. It is the member's responsibility to consider and apply any applicable limitations. See General Line Instruction A, Limitations on Losses, Deductions and Credits.

You should read the federal Schedule K-1 (1065) instructions before completing your tax return with this Schedule K-1 (568) information.

B Definitions

Member

A member is a person owning an interest in the LLC; one whose potential personal liability for LLC debts is limited to the amount of money or other property that the member contributed or is required to contribute to the LLC.

Nonrecourse Loans

Nonrecourse loans are those liabilities of the LLC for which none of the members has any personal liability.

Corporate Members

Corporate members of LLCs doing business in California may be considered to be doing business in California and are therefore subject to the corporate franchise tax.

Apportionment

Apportionment is the process by which business income from a trade or business which is conducted in two or more states (an apportioning trade or business) is divided between taxing jurisdictions. The apportionment percentage is determined by reference to the California property, payroll and sales factors of the apportioning trade or business. The total business income of the unitary business is multiplied by this percentage to derive the amount of business income apportioned to California.

Unitary

Unitary refers to a method of taxation by which all of the activities comprising a single trade or business are viewed as a single unit, irrespective of whether those activities are conducted by divisions of a single entity or by commonly owned or controlled entities. The business income from all of the unitary business activities is combined into a single report. An apportionment formula is then applied to the combined business income to determine the portion attributable to California. For further information about unitary business principles, get FTB Pub. 1061, Guidelines for Corporations Filing a Combined Report.

Elections

Generally, the LLC decides how to figure taxable income from its operations. For example, it chooses the accounting method and depreciation methods it will use.

However, certain elections are made by you separately on your individual income tax return and not by the LLC.

These elections are made under the following Internal Revenue Code (IRC) sections, to which California conforms:

- IRC Section 108(b)(5) (income from discharge of indebtedness); and
- IRC Section 617 (deduction and recapture of certain mining exploration expenditures, paid or incurred).

Additional Information

For more information on the treatment of LLC income, deductions, credits, etc., get the following federal publications: Publication 541, Tax Information on Partnerships, and Publication 535, Business Expenses.

C Specific Instructions

Questions and Items A through I

The LLC completes the questions and items at the top of Schedule K-1 (568) for all members. For more information, see the federal instructions for Schedule K-1 (1065).

Schedule K-1 (568)

- **Important Note to Members:** If your Schedule K-1 (568) reports losses and/or deductions, you must first apply the basis limitations described under IRC Section 704(d), the at-risk limitations found under IRC Section 465, and the passive activity loss limitations under IRC Section 469 before such losses/deductions can be deducted on your return. See General Line Instruction A, Limitations on Losses, Deductions and Credits, for additional information. IRC Section 705(a) provides direction on how to compute your basis. If your return is ever examined, you may be required to provide your computations and the supporting documents. You will also need to know your basis when you transfer, sell, or exchange your interest in the LLC and when the LLC terminates.
- If you are an individual member, the amounts in column (c), Adjustments, and column (d), Total amounts using California law, that are from nonpassive activities must be reported on the appropriate California form or schedule; i.e., Schedule D, California Capital Gain or Loss Adjustment, Schedule D-1, Sales of Business Property, Schedule CA (540), California Adjustments — Residents, or Schedule CA (540NR), California Adjustments — Nonresidents or Part-Year Residents.
- Amounts in column (e), California source amounts and credits, that are from passive activities must be reported on form FTB 3801 or form FTB 3802, Passive Activity Loss Limitations, and the related worksheets that are used to figure any passive loss limitations.
- If you are not an individual member, report the amounts as instructed on your tax return.
- If you have losses, deductions, credits, etc., from a prior year that were not deductible or usable because of certain limitations, such as the at-risk rules, they may be taken into account in determining your net income, loss, etc., for this year. However, do not combine the prior-year amounts with any amounts shown on this Schedule K-1 (568) to get a net figure to report on any supporting schedules, statements or forms attached to your return. Instead, report the amounts on an attached schedule, statement or form on a year-by-year basis. See the federal instructions for Schedule K-1 (1065), At-Risk Limitations, for more information.

D Reporting Information from Columns (d) and (e)

If the LLC income is from activities both within and outside of California, the LLC will complete Schedule R, Apportionment and Allocation of Income, to determine the LLC income from California sources. Resident members will use only the information in column (c) and column (d) to report their share of the LLC's income or loss. Nonresident, corporate, and other entity members must report their share of

Schedule K-1 (568) Instructions

income apportioned or allocated to California as indicated on Schedule K-1 (568). Special rules apply if a member and the LLC engage in a unitary business. See Title 18, Cal. Code Reg. Sections 17951 and 25137-1 for more information. Also see General Information F, Unitary Members. Nonresident, corporate, and other entity members (other than members that are unitary with the LLC) will use the information in columns (c), (d) and (e) to report their distributive share of income (losses) or credits. Residents, part-year residents and some nonresidents may qualify for a credit for taxes paid to other states on income that is apportioned or allocated to a state other than California.

Nonapportioning LLCs do not need to fill out column (e) on a K-1 if the member is a resident and the "No" box is checked on Question H. However, the final determination of residency is made at the member level. If the LLC is uncertain as to the residency status of the member, it should fill out column (e) for that member.

E Income Not from a Trade Or Business of the LLC

If the LLC has income that is not from a trade or business (nonbusiness income), the source of that nonbusiness intangible income will be determined at the member level. However, nonbusiness income from real or tangible property located in California, such as rents, royalties, gains or losses, is California source income (Title 18 Cal., Code Reg. Section 17951-3 and R&TC Sections 25124 and 25125). This information should be included on the appropriate line of column (e), as well as in Table 2, Part B if the LLC believes it is unitary with the member or if the LLC is uncertain as to whether it is unitary with the member. Non-unitary members should ignore the information in Table 2 and use column (e).

The source of income from all nonbusiness intangibles will depend on whether the member is required to apportion its income and whether the member is a corporation. In most cases, income from nonbusiness intangible property is sourced at the residence (or commercial domicile of a corporation) of the member.

However, for individuals, estates, trusts and S corporations that are not required to apportion their income, income from nonbusiness intangibles will have a California source if the intangible has acquired a California business situs. See Title 18, Cal. Code Reg. Section 17951-2 and R&TC Section 17952. If the intangible income is determined to have a business situs by the LLC, the intangible income will be included in column (e).

If the member is an apportioning taxpayer or is a corporation, Title 18, Cal. Code Reg. Sections 17951-4 and 25137-1 require that nonbusiness income from intangibles be allocated in accordance with the rules of R&TC Sections 25126 and 25127.

Because the source of intangible nonbusiness income is dependent upon the status of the individual member, that income is not included in column (e) and is entered only in Table 1. The member must determine the source of such income by applying the rules described above.

F Unitary Members (This section applies to apportioning LLCs only.)

Note: The following rules apply not only to corporations, but to an individual or other entity that conducts a trade or business that is unitary with the LLC (see Title 18, Cal. Code Reg. Section 17951, incorporating the provisions of Section 25137 and regulations thereunder).

Unitary members cannot use the California source information reflected in column (e). Such members must use the information in Table 1 and Table 2, as described below.

The member's distributive share of LLC items is determined by applying the LLC rules in R&TC Sections 17851 through

17858. The determination of the portion of the distributive share of business and nonbusiness income that has its source in this state or that is includible in the member's business income subject to apportionment are made in accordance with Title 18, Cal. Code Reg. Section 25137-1 if the member, or the LLC, or both, have income from sources within and outside this state. The member, in computing net income for its tax accounting period, must include its distributive share of LLC items referred to above for any LLC taxable year ending within or with the member's tax accounting period.

Distributive Items of Business Income

Apportionment of Business Income – Unitary Business

— If the LLC's activities and the member's activities constitute a unitary business under established standards (other than ownership requirements) the combined business income of this single trade or business apportioned to California is determined by combining the member's distributive share of the LLC's apportionment factors for any LLC year ending within the member's tax accounting period with the factors of the member. Combined business income is then apportioned by using a 3 or 4 factor formula consisting of property, payroll and a single or double-weighted sales factor of the member. Use of a 3 factor formula depends upon whether combined gross business receipts (member's share of the LLC's gross business receipts plus the member's own gross business receipts) are more than 50% from agricultural, extractive, savings and loans, or banking or financial business activities.

If you are a member that is unitary with an LLC, use Table 2 to compute your factors, applying the rules shown below (see Title 18, Cal. Code Reg. Section 25137-1 for examples). Members that are unitary with the LLC should perform the following steps:

1. Combine your distributive share of the LLC's business income with your own business income to determine total business income.
2. Compute property, payroll and sales factors by combining the LLC's factors from Table 2, Part C with your own factors as explained below.
3. Apply the apportionment factor determined in Step 2 to the total business income determined in Step 1 to arrive at business income apportioned to this state.

1. Unitary Member's Computation of Property Factor

Use Schedule R to compute the numerator and the denominator of the property factor. Adjust factors in accordance with Title 18, Cal. Code Reg. Sections 25130 and 25131. Also apply the following special rules:

- A. Include in the denominator of the member's property factor the member's distributive share of the LLC's beginning and ending balances of real and tangible property (owned or rented) and used during the tax accounting period in the regular course of business. See Table 2, Part C.
- B. Include in the numerator of the member's property factor the value of such property that is described in 1A above that is located in California. See Table 2, Part C.
- C. See Title 18, Cal. Code Reg. Section 25137-1(f)(1)(B) for examples of how to avoid duplication of the value of property that is rented by the member to the LLC or vice versa.

2. Unitary Member's Computation of Payroll Factor

Use Schedule R to compute the numerator and the denominator of the payroll factor in accordance with Title 18, Cal. Code Reg. Sections 25132 and 25133. Apply the following special rules:

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- A. Include in the denominator of the member's payroll factor the member's distributive share of the LLC's payroll used to produce business income. See Table 2, Part C; and
- B. Include in the numerator any such payroll described in 2A that is applicable to California. See Table 2, Part C.

3. Unitary Member's Computation of the Sales Factor

Compute the numerator and denominator of the sales factor in accordance with the Title 18, Cal. Code Reg. Sections 25134 to 25136. Apply the following special rules:

- A. Include in the denominator of the sales factor the member's distributive share of the LLC's sales that give rise to business income. See Table 2, Part C;
- B. Include in the numerator of the member's sales factor the amount of such sales described in 3A attributable to California; and
- C. Eliminate intercompany sales as follows:
 - Sales by the member to the LLC to the extent of the member's interest in the LLC; or
 - Sales by the LLC to the member not to exceed the member's interest in all LLC sales (see Title 18, Cal. Code Reg. Section 25137-1(f)(3)).

Distributive Items of Nonbusiness Income for a Unitary Member

Income in Table 2, Part B is from a California source under R&TC Sections 25124 and 25125. Because Schedule K-1 (568), column (e) data is not utilized by a unitary member, unitary members must make certain to separately include such items as California source income.

Items that increase your basis, but not below zero, are:

- Money and your adjusted basis of property contributed to the LLC;
- Your distributive share of the LLC's income; and
- Your distributive share of the increase in the liabilities of the LLC (and/or your individual liabilities caused by your assumption of LLC liabilities).

Items that decrease your basis but not below zero, are:

- Money and your adjusted basis of property distributed to you;
- Your share of the LLC's losses; and
- Your share of the decrease in the liabilities of the LLC (and/or your individual liabilities assumed by the LLC).

This is not a complete list of items and factors that determine basis. Get federal Publication 541 for a complete discussion of how to determine the adjusted basis of your LLC interest.

Generally, the California basis is the same as the federal basis.

At-Risk Rules

Generally, if you have: (1) a loss or other deduction from an activity carried on as a trade or business or for the production of income by the LLC; and (2) amounts in the activity for which you are not at-risk, you will have to complete federal Form 6198, At-Risk Limitations, to figure the allowable loss to report on your return. Complete federal Form 6198 using California amounts.

The at-risk rules generally limit the amount of loss, (including loss on disposition of assets) and other deductions (such as the IRC Section 179, R&TC Sections 17266, 17267.2 and 17268 deduction) that you can claim to the amount you could actually lose in the activity. See the federal instructions for Schedule K-1 (1065), At-Risk Limitations, for more information.

Passive Loss Rules

IRC Section 469 limits the deduction of certain losses and credits. California law is the same as this federal provision. These rules apply to members who:

- Are individuals, estates, trusts, closely held corporations, personal service corporations or S corporations; and
- Have a passive activity loss or credit for the taxable year.

A passive activity is generally a trade or business activity in which the member does not materially participate or a rental activity. An LLC may have more than one activity. Each member must apply the passive activity loss limitations on an activity by activity basis.

Individuals, estates and trusts and S corporations must complete form FTB 3801, Passive Activity Loss Limitations, to figure the allowable passive losses, and form FTB 3801-CR, Passive Activity Credit Limitations, to figure the allowable passive credits. Corporations and exempt organization must complete form FTB 3802, Corporate Passive Activity Loss and Credit Limitations.

The amounts reported on Schedule K-1 (568), line 1 and line 14 are passive activity income (loss) or credits from the trade or business of the LLC if you are a limited member, or if you are a general member who did not materially participate in the trade or business activities of the LLC. The amounts reported on Schedule K-1 (568), line 2, line 3 and line 13b are from rental activities of the LLC and are passive activity income (loss) or credits to all members. There is an exception to this rule for losses incurred by qualified investors in qualified low-income housing projects. The LLC will identify any of these qualified amounts on an attachment for line 2.

See the federal instructions for Schedule K-1 (1065), Passive Activity Limitations, for more information.

General Line Instructions

Line 1
through

Line 3 – The amounts shown on line 1 through line 3 reflect your share of income or loss from LLC business or rental operations without reference to limitations on losses or adjustments that may be required of you because of:

- The adjusted basis of your LLC interest;
- The amount for which you are at-risk as determined under IRC Section 465; or
- The passive activity limitations of IRC Section 469.

See the federal partnership instructions for line 1 through line 23 for more information. **Note:** Federal line 15a through line 15c and line 17a through line 17g do not apply to California.

A Limitations on Losses, Deductions and Credits

There are three separate potential limitations on the amount of LLC losses that you may deduct on your return. These limitations and the order in which they must be applied are: the basis rules, the at-risk rules and the passive loss rules. Each of these limitations is discussed separately below.

Note: Other limitations may apply to specific deductions such as the investment interest expense deduction. These limitations on specific deductions generally apply before the basis, at-risk and passive loss limitations.

Basis Rules

Generally, you may not claim your share of an LLC loss (including a capital loss) that is greater than the adjusted basis of your LLC interest at the end of the LLC's taxable year.

You can compute the adjusted basis of your LLC interest by adding items that increase your basis and then subtracting items that decrease your basis.

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Specific Line Instructions

Enter the difference between federal and California amounts from column (c) on Schedule CA (540), California Adjustments — Residents, if you are a resident, or on Schedule CA (540NR), California Adjustments — Nonresidents or Part-Year Residents, if you are a nonresident. Also, if you are a nonresident, enter California source amounts from the Schedule K-1 (568), column (e), on your Schedule CA (540NR), column (E).

Note to Nonresident Members: The specific line instructions below that instruct you to enter information from Schedule K-1 (568), column (d), on other forms, apply to resident members. When the instructions make reference to column (d), nonresident members should take information from columns (c), (d) and (e) and apply the information to the appropriate line relating to computation of total income and income from California sources.

A Income (Loss)

Line 1 – Ordinary Income (Loss) from Trade or Business Activities

The amount reported on line 1, column (d), is your share of the ordinary income (loss) from the trade or business activities of the LLC. For individual members, generally, where you report this amount on Form 540 or Form 540NR depends on whether or not the amount is from an activity that is a passive activity to you.

If, in addition to this passive activity income, you have a passive activity loss from this LLC or from any other source, report the income on form FTB 3801 or form FTB 3802. If a loss is reported on line 1, column (d), report the loss on the applicable line of form FTB 3801 or form FTB 3802 to determine how much of the loss is allowable.

Note: If the LLC income is from activities both within and outside of California, the amount of income nonresidents or corporate members must report on their income or franchise tax return is a function of the LLC's apportionment percentage and allocation of income for the specific members. Reporting instructions are included in the information provided by the LLC. See also Title 18, Cal. Code Reg. Sections 17951-4 and 25137-1 for more information. Also see General Information F, Unitary Members.

Line 2 – Income (Loss) from Rental Real Estate Activities

Generally, the income (loss) reported on line 2, column (d), is a passive activity amount to all members. There is an exception, however, for losses from a qualified low-income housing project. The loss limitations of IRC Section 469 do not apply to qualified investors in qualified low-income housing projects. If applicable, the LLC will attach a schedule for line 2 to identify such amounts. You will have to report the California adjustment amount from column (c) on Schedule CA (540 or 540NR).

Use the following instructions to determine where to enter the line 2 amount.

- If you have a loss on line 2, column (d) (other than a qualified low-income housing project loss), enter the loss on the applicable line of form FTB 3801 or form FTB 3802 to determine how much of the loss is allowable. Your share of the loss may be eligible for the special \$25,000 allowance for rental real estate losses. Get the instructions for form FTB 3801 or form FTB 3802 for more information.

See the federal Specific Instructions for line 2, item 1 and item 2 for more information.

Note: If you are a qualified investor reporting a qualified low-income housing project loss, report any California adjustment amount from column (c) on Schedule CA (540 or 540NR).

- If you have only income on line 2, column (d), and no other passive losses, enter any California adjustment amount from column (c) on Schedule CA (540 or 540NR). However, if in addition to this passive activity income, you have a passive activity loss from this LLC or from any other source, report the line 2, column (d), income on the applicable line of form FTB 3801 or form FTB 3802.

Line 3 – Income (Loss) from Other Rental Activities

The amount on line 3, column (d) is a passive activity amount for all members.

- If line 3, column (d) is a loss, report the loss on the applicable line of form FTB 3801 or form FTB 3802.
- If only income is reported on line 3, column (d), and you have no other passive losses, report the California adjustment from column (c) on Schedule CA (540 or 540NR). However, if in addition to this passive activity income, you have a passive activity loss from this LLC or from any other source, report the line 3 income on the applicable line of form FTB 3801 or form FTB 3802.

Line 4a through Line 4e

– Portfolio Income (Loss)

Portfolio income (loss) referred to as "portfolio" in these instructions is not subject to the passive activity limitations of IRC Section 469. Portfolio income includes interest, dividend and royalty income and gain or loss on the sale of property held for investment. If you have amounts on Schedule K-1 (568), line 4a through line 4e, report these amounts as follows:

- Line 4a, column (c) — Report on Schedule CA (540 or 540NR), line 8, column B or line 8, column C, whichever is applicable;
- Line 4b, column (c) — Report on Schedule CA (540 or 540NR), line 9, column B or line 9, column C, whichever is applicable;
- Line 4c, column (c) — Report on Schedule CA (540 or 540NR), line 17, column B or line 17, column C, whichever is applicable;
- Line 4d, column (d) — Report on Schedule D; and
- Line 4e, column (d) — Report on applicable schedule.

Caution: Generally, amounts reported on line 4d and line 4e are gains or losses attributable to the disposition of property held for investment and are, therefore, classified as portfolio income (loss). If, however, an amount reported on line 4d or line 4e, column (d) is a passive activity amount, the LLC will identify the amount.

The LLC uses line 4e, column (d), to report portfolio income other than interest, dividend, royalty and capital gain (loss) income. The LLC will attach a schedule to Schedule K-1 (568) to tell you what kind of portfolio income is reported on line 4e, column (d). An example of portfolio income that could be reported on line 4e, column (d), is from a real estate mortgage investment conduit (REMIC) in which the LLC is a residual interest holder.

If the LLC has a residual interest in a REMIC, it will report on the schedule your share of REMIC taxable income (net loss). Report the adjustment amount from column (c) on Schedule CA (540 or 540NR). The LLC will also report your share of "excess inclusion" and your share of IRC Section 212 expenses. If you itemized your deductions on federal Schedule A (1040), you may deduct these IRC Section 212 expenses as a miscellaneous deduction subject to the 2% adjusted gross income limit and the high income taxpayer adjustment.

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Line 5 – Guaranteed Payments to Members

Generally, amounts on this line are not part of a passive activity. If there is an amount on Schedule K-1 (568), line 5, column (c), enter this amount on Schedule CA (540 or 540NR), line 21, column B or line 21, column C, whichever is applicable.

Line 6 – Net Gain (Loss) Under IRC Section 1231 (Other Than Due to Casualty or Theft)

If the amount on line 6 relates to rental activity, the IRC Section 1231 gain (loss) is a passive activity amount. If the amount relates to a trade or business activity and you are a member that did not materially participate, the IRC Section 1231 gain (loss) is a passive activity amount.

- If the amount is not a passive activity amount to you, report it on Schedule D-1, Sales of Business Property, line 2, column (g) or column (h), whichever is applicable. You do not have to complete column (b) through column (f). Write "From Schedule K-1 (568)" across these columns.
- If a gain is reported on line 6, column (d), and it is a passive activity amount to you, report the gain on Schedule D-1, line 2, column (h), and be sure to see "Passive Loss Limitations" on page 1 of the instructions for Schedule D-1.
- If a loss is reported on line 6, column (d), and it is a passive activity amount to you, see "Passive Loss Limitations" on page 1 of the instructions for Schedule D-1. You must use form FTB 3801 to determine how much of the loss is allowed on Schedule D-1.

Line 7 – Other Income (Loss)

Amounts on this line are other items of income (loss) not included on line 1 through line 6.

The LLC should give you a description of the amount of your share for each of these items.

The instructions below tell you where to report line 7 items if the items are not passive activity amounts.

Report loss items that are passive activity amounts on form FTB 3801 or form FTB 3802.

Report income or gain items that are passive activity amounts as instructed below. However, if in addition to this passive activity income or gain, you have passive activity losses from any other source, report the passive activity income or gain on form FTB 3801 or form FTB 3802.

Line 7 items may include:

- LLC gains from disposition of farm recapture property (get Schedule D-1) and other items to which IRC Section 1252 applies;
- Recoveries of bad debts, prior taxes and delinquency amounts (IRC Section 111). Report the amount from line 7, column (c), on Schedule CA (540 or 540NR), line 21f, column B or line 21f, column C, whichever is applicable;
- Gains and losses from wagering (IRC Section 165(d)). Report the amount from line 7, column (c), on Schedule CA (540 or 540NR), line 21f, column B or line 21f, column C, whichever is applicable;
- Any income, gain or (loss) to the LLC under IRC Section 751. Report this amount on Schedule D-1, line 10;
- Specially allocated ordinary gain or (loss). Report this amount on Schedule D-1, line 10; and
- Net gain or (loss) from involuntary conversions due to casualty or theft. The LLC will give you a schedule that shows the California amounts to be entered on federal Form 4684, Casualties and Thefts, Section B, Part II, line 34, column (b)(i), column (b)(ii) and column (c).

B Deductions

Line 8 – Charitable Contributions

The LLC will give you a schedule that shows which contributions were subject to the 50%, 30% and 20% limitations. For further information, see the instructions for federal Form 1040.

If there is an amount on Schedule K-1 (568), line 8, column (c), enter this amount on Schedule CA (540 or 540NR), line 37.

Line 9 – Expense Deduction for Recovery Property

The maximum amount of expense deduction for recovery property (IRC Section 179 deduction) that you can claim for all sources is \$13,000. The \$13,000 limit is reduced if the total cost of IRC Section 179 property placed in service during the year exceeds \$200,000. The LLC will give you information on your share of the IRC Section 179 deduction and of the cost of the LLC's IRC Section 179 property so that you can compute this limitation. Your IRC Section 179 deduction is also limited to your taxable income from all of your trades or businesses. See form FTB 3885A, Depreciation and Amortization Adjustments – Individuals and get federal Publication 534, Depreciating Property Placed In Service Before 1987, for more information.

If the IRC Section 179 deduction is a passive activity amount, report it on the applicable line of form FTB 3801. If it is not a passive activity amount, and there is an amount on Schedule K-1 (568), line 9, column (c), enter this amount on Schedule CA (540 or 540NR), line 21f, column B or line 21f, column C, whichever is applicable.

Refer to R&TC Sections 17266, 17267.2 and 17268 on how to figure the expense deduction for recovery property in an economic development area.

Line 10 – Deductions Related to Portfolio Income

Amounts entered on this line are the deductions that are clearly and directly allocable to portfolio income (other than investment interest expense and expenses from a REMIC). If you have an amount on Schedule K-1 (568), line 10, column (c), enter this amount on Schedule CA (540 or 540NR), line 21f, column B or column C, as applicable. If any of the line 10 amount should not be reported on Schedule CA (540 or 540NR), the LLC will have identified that amount for you.

Line 11 – Other Deductions

Amounts on this line are deductions not included on line 8 through line 10. If there is an amount on Schedule K-1 (568), line 11, column (c), enter this amount on the applicable line of Schedule CA (540 or 540NR).

C Investment Interest

If the LLC paid or accrued interest on debts it incurred to buy or hold investment property, the amount of interest you can deduct may be limited.

For more information and the special provisions that apply to investment interest expense, get form FTB 3526, Investment Interest Expense Deduction, and federal Publication 550, Investment Income and Expenses.

Line 12a – Interest Expense on Investment Debts

Enter the amount from column (d) on form FTB 3526 along with your investment interest expense from any other sources. Form FTB 3526 will help you determine how much of your total investment interest is deductible.

Schedule K-1 (568) Instructions

Line 12b(1)

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Line 12b(2) – Investment Income and Investment Expenses

Use the column (d) amounts to determine the amount to enter on form FTB 3526, line 1.

Caution: The amounts shown on line 12b(1) and line 12b(2) include only investment income and expenses included on line 4 and line 10 of this Schedule K-1 (568). The LLC should attach a schedule that shows the amount of any investment income and expenses included in any other lines of this Schedule K-1 (568). Use these amounts, if any, to adjust line 12b(1) and line 12b(2) to determine your total investment income and total investment expenses from this LLC.

Combine these totals with investment income and expenses from all other sources to determine the amount to enter on form FTB 3526, line 1.

D Credits

If you have credits that are passive activity credits to you, you must complete form FTB 3801-CR (or form FTB 3802 for corporations) in addition to the credit forms referenced. Get the instructions for form FTB 3801-CR (or form FTB 3802) for more information.

Line 13a(1) – Withholding on LLC Allocated to All Members

If taxes were withheld from payments to the LLC by another entity, this withholding is allocated to all members according to their respective LLC interests. Your share is entered on line 13a(1).

Line 13a(2) – LLC Withholding on Nonresident Members

If taxes were withheld-at-source on you as a domestic or foreign nonresident member, the amount of the withholding is entered on line 13a(2).

Line 13a(3) – Total Withholding

The amounts (if any) on line 13a(1) and line 13a(2) are added together to get the total amount of withholding credit you have for the LLC year. If taxes were withheld by the LLC or if there is a pass-through withholding credit from another entity, the LLC must provide you a completed Form 592-B, Nonresident Withholding Tax Statement. You must attach Form 592-B to the front of your California income or franchise tax return to claim the amount withheld, even if you are a resident. The amount shown on the Form 592-B should be claimed on:

- Form 540, California Resident Income Tax Return, line 38, or;
- Form 540NR, California Nonresident or Part-Year Resident Income Tax Return, line 47, or;
- Form 541, California Fiduciary Income Tax Return, line 28, or;
- Form 109, California Exempt Organization Business Income Tax Return, line 22, or;
- Form 100, California Corporation Franchise or Income Tax Return, line 35, or;
- Form 100S, California S Corporation Franchise or Income Tax Return, line 35.

Schedule K-1 (568) may not be used to claim the withholding credit. If the LLC is not on a calendar year, the amount on line 13a(3) may not match the amount on Form 592-B because of the difference in accounting periods.

Line 13b – Low-Income Housing Credit

Your share of the LLC's low-income housing credit is shown on line 13b, column (d). Any allowable credit is entered on form FTB 3521, Low-Income Housing Credit. The passive activity credit limitations of IRC Section 469, however, may limit the amount of credit you take. Credits

from passive activities are generally limited to tax attributable to passive activities.

Caution: You cannot claim the low-income housing credit on any qualified low-income housing project for which any person was allowed any benefit under IRC Section 502 of the Tax Reform Act of 1986.

Line 13c – Other Credits Related to Rental Real Estate Activities

If applicable, the LLC will use this line, through an attached schedule, to give you the information you need to compute credits related to rental real estate activities other than the low-income housing credit.

Line 13d – Credits Related to Other Rental Activities

If applicable, the LLC will use this line, through an attached schedule, to give you the information you need to compute credits related to rental activities other than rental real estate activities.

Line 13e – Nonconsenting Member Tax Paid by LLC

This line shows any income tax paid on your behalf by the LLC if, as a nonresident member, you did not sign form FTB 3832, Limited Liability Company's List of Members and Consents, consenting to California's jurisdiction to tax your pro rata share of the LLC income attributable to California sources. You must attach a copy of Schedule K-1 (568) to your California income or franchise tax return to claim the tax paid by the LLC on your behalf. See the instructions for line 13a(3) for information as to where to claim this credit.

Line 14 – Other Credits

If applicable, the LLC will use this line, through an attached schedule, to give you the information you need to compute credits related to a trade or business activity.

Examples of credits that may be reported on line 14 (depending on the type of activity they relate to) include:

- Community Development Financial Institution Deposits credit. Use credit code 209.
- Disabled Access credit — get form FTB 3548.
- Donated Agricultural Products Transportation credit — get form FTB 3547.
- Employer Child Care Program/Contribution credit — get form FTB 3501.
- Enhanced Oil Recovery credit — get form FTB 3546.
- Enterprise Zone Hiring & Sales or Use Tax credit — get form FTB 3805Z.
- Farmworker Housing Credit-Construction. Use credit code 207.
- Farmworker Housing Credit-Loan. Use credit code 208.
- Los Angeles Revitalization Zone Hiring & Sales or Use Tax credit — get form FTB 3806.
- Local Agency Military Base Recovery Area Hiring & Sales or Use Tax — get form FTB 3807.
- Manufacturers' Investment credit — get form FTB 3535.
- Prison Inmate Labor credit — get form FTB 3507.
- Research credit — get form FTB 3523.
- Rice Straw credit. Use credit code 206.
- Salmon and Steelhead Trout Habitat Restoration credit. Use credit code 200.

Note: The passive activity limitations of IRC Section 469 may limit the amount of credits on line 13b, line 13c, line 13d and line 14. Line 13b, line 13c and line 13d credits are related to the rental activities of the LLC. Line 14 credits are related to the trade or business activities of the LLC. In general, passive activity credits, as defined in R&TC Section 17561, from passive activities are limited to tax attributable to passive activities for California purposes. Credits that may be limited under the passive activity credit rules are the:

- Research credit; and
- Low-income housing credit.

Schedule K-1 (568) Instructions

You may be able to use the low-income housing credit, and other credits generated from rental activities, against tax on other income. See form FTB 3801-CR, Passive Activity Credit Limitations, for more information.

The LLC has included on line 14 your distributive share of net income taxes paid to other states by the LLC. Subject to the limitations of R&TC Section 18006, members may claim a credit against their individual tax for net income taxes paid by the LLC to another state. The amount of tax paid is required to be supported by a copy of the return filed with the other state and evidence of the payment of the tax. Get Schedule S, Other State Tax Credit, for more information.

E Adjustments and Tax Preference Items

Line 15a
through
Line 15e

col. (d) – Use the information reported on line 15a through line 15e, column (d) as well as your adjustments and tax preference items from other sources to complete Schedule P (540), Alternative Minimum Tax and Credit Limitations — Residents; Schedule P (540NR), Alternative Minimum Tax and Credit Limitations — Nonresidents or Part Year Residents; Schedule P (541), Alternative Minimum Tax and Credit Limitations — Fiduciaries; or Schedule P (100), Alternative Minimum Tax and Credit Limitations — Corporations. For additional information, see the federal instructions for Schedule K-1 (1065), Adjustments and Tax Preference Items, line 16a through line 16e.

F Other

Line 16
through

Line 19 – See the federal instructions for Schedule K-1 (1065), Other, line 18 through line 21. The LLC should give you a description and the amount of your share for each item applicable to California, in this category.

Line 22 – The LLC will provide supplemental information required to be reported to you on this line. If the LLC is claiming tax benefits from an EZ, LARZ, or LAMBRA, it will give you the business income, and business capital gains and losses, apportioned to the EZ, LARZ or LAMBRA on this line. Get form FTB 3805Z, FTB 3806, or FTB 3807 to claim any applicable credit.

The LLC may have provided an amount showing your proportionate interest in the LLC's aggregate gross receipts, less returns and allowances on this line. Legislation enacted in 1996 allows a qualified taxpayer to exclude income, positive and negative adjustments and preference items attributable to any trade or business from alternative minimum taxable income. A "qualified taxpayer" is defined as an individual, estate or trust that:

- Is the owner of, or has an ownership interest in a trade or business; **and**
- Has aggregate gross receipts, less returns and allowances, of less than \$1,000,000 during the taxable year from all trades or businesses that the taxpayer is an owner or has an ownership interest. In the case of an ownership interest, you should include only your proportional share of aggregate gross receipts of any trade or business from a partnership, LLC, S corporation, regulated investment company (RIC), real estate investment trust (REIT) or real estate mortgage investment conduit (REMIC).

You need to add your share of the aggregate gross receipts from this LLC to your aggregate gross receipts from all other trades or businesses in which you hold an interest to determine if you are a qualified taxpayer.

For purposes of R&TC Section 17062(b)(4), "aggregate gross receipts, less returns and allowances" means the sum of the gross receipts of the trades or businesses which the taxpayer owns and the proportionate interest of the gross receipts of the trades or businesses which the taxpayer owns and of pass-through entities in which the taxpayer holds an interest. "Gross receipts" means the sum of the gross receipts from the production of business income, as defined in subdivision (a) of R&TC Section 25120, and the gross receipts from the production of nonbusiness income, as defined in subdivision (d) of R&TC Section 25120. For purposes of this section "pass-through entity" means a partnership (as defined by R&TC Section 17008), an S corporation, a regulated investment company (RIC), a real estate investment trust (REIT), and a real estate mortgage investment conduit (REMIC). See R&TC Section 17062 for more information.

G Table 1

Generally, California sources nonbusiness interest and dividends to the state of residence for nonapportioning individuals. Nonapportioning means doing business entirely within California. For more information regarding the sourcing of intangibles, see R&TC Section 17952.

For apportioning members, nonbusiness interest and dividends generally are allocable to California if the taxpayer's commercial domicile is California. For information regarding sourcing of intangibles for apportioning taxpayers, see R&TC Sections 24126 and 25127.

The income data contained in Table 1 is not reflected in column (e) of Schedule K-1(568). For additional information, see General Information E, Income Not from a Trade or Business of the LLC.

H Table 2

The final determination of unity is made at the member level.

If the member and the LLC are engaged in a single unitary business, or if the LLC is uncertain as to whether it is unitary with the member, the LLC will furnish the information on Table 2.

The member's share of the LLC's business income is entered on Table 2, Part A. The member then adds that income to its own business income and apportions the combined business income using the revised factor described below.

Table 2, Part B reflects the member's share of nonbusiness income from real and tangible property wholly sourced or allocable to California. This is added to apportioned business income and nonbusiness intangible income allocated to California and becomes a part of California taxable income. For more information on sourcing intangibles, see R&TC Sections 25124 and 25125 and Title 18, Cal. Code Reg. Sections 17951-1, 17951-2 and 17951-3.

The member's share of the LLC's property, payroll and sales factors is in Table 2, Part C. The member combines its apportionment factors with the apportionment factors of the LLC and uses the revised factor to compute its business income apportioned to California. For further information, see General Information E, Income Not from a Trade or Business of the LLC.